MEMORANDUM

TO: Buckman Direct Diversion Board

FROM: Nancy Long

DATE: For Board Meeting of October 11, 2012

RE: **Update on BDDB Operational Agreements as to the role of the Board in the Filling of Personnel Vacancies**

At the September 2012 BDDB meeting, I provided a memo and general overview of the role of the City of Santa Fe as the Project Manager under the terms of the Project Management and Fiscal Services Agreement ("PMFSA") between the City of Santa Fe and the BDDB. As part of that discussion, the issue arose as to whether the Board has a role or should have a role, in the hiring of staff positions for the project, particularly high level positions and specifically at this point in time, the Facilities Manager. The Board requested that I review the governing documents applicable to this issue and provide an updated response.

The Joint Powers Agreement ("JPA") entered into between the City of Santa Fe and Santa Fe County which established the Buckman Direct Diversion Board provides that "the BDD Board [has] all powers, necessary or implied, to oversee the planning, procurement, financing, permitting, design, construction, operations and management of the BDD Project." The JPA also provides that the BDD Board shall enter into the Project Management and Fiscal Services Contract and "supervise the performance of the Project Manager" as further described in the agreement. The Project Manager is responsible for, among other things, "the provision of staffing services to the BDD Board", reports directly to the BDD Board and is supervised by the Board. The Project Manager is, as you know, the Sangre de Cristo Water Division of the City of Santa Fe. Under the JPA therefore, the broad powers of the BDD Board to construct and operate the BDD Project are provided for and the specific responsibilities of the Project Manager are also outlined, subject to the BDD Board's authority to supervise the performance of the Project Manager.

The PMFSA provides that the BDD Board has delegated to the Project Manager the responsibility to carry out the directives and policies of the BDD Board including the provision of support staff for BDD Board meetings. Among the specific responsibilities of the Project Manager during project operations, as provided in Article 6 of the PMFSA, is the responsibility to "recruit, hire and train staff for the Project according to the BDD Board's approved staffing plan." The PMFSA also provides for Board supervisory responsibility of the Project Manager.

The Project Manager has, consistent with its responsibility to do so, recruited, hired and trained staff for project operations, including the hiring of the Facilities Manager as provided in the approved staffing plan. The City, as Project Manager, has proceeded with filling the position of Facilities Manager pursuant to its past practices of advertising for and filling vacancies to staff the project. The Board, pursuant to its overall supervisory responsibilities and overall authority for the project, can provide directives and policies to the Project Manager and this would presumably include direction regarding its desired role in the hiring of the Facilities Manager. It is my understanding that the position of Facilities Manager has been advertised, applications have been received and interviews will follow. It is also my understanding that city staff has proposed to include county representatives on the hiring committee for this position.